

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

LO'RENZO HEARD,

Case No. 18-CV-2678-DSD-KMM

Plaintiff,

v.

REPORT AND RECOMMENDATION

OLMSTED COUNTY JAIL,

Defendant.

In an order dated October 2, 2018, this Court ordered Plaintiff Lo'Renzo Heard to pay an initial partial filing fee of at least \$50.87. *See* Order 4, ECF No. 5. Mr. Heard was given until October 22, 2018 to pay that fee, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

That deadline has now passed, and Mr. Heard has not paid the initial partial filing fee. In fact, Mr. Heard has not communicated with the Court about this case at all since commencing this action. Accordingly, this Court now recommends, in accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 F. App'x 496, 497 (8th Cir. 2008) (per curiam) ("A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein,
IT IS HEREBY RECOMMENDED that this action be DISMISSED WITHOUT
PREJUDICE under Federal Rule of Civil Procedure 41(b) for failure to prosecute.

Date: November 16, 2018

s/Katherine Menendez
Katherine Menendez
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).